
The Miami-Dade County
Independent Review Panel

2003

Annual Report

Riley Davis Jr. Chairperson



The Independent Review Panel

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Chairperson's Message



Riley Davis, Jr.

Riley Davis resigned from the Independent Review Panel after serving for five years, four as Chairperson. Mr. Davis moved out of town but communicated that he is proud to have served on a civilian oversight panel whose purpose is the improvement of our county government through public hearings of complaints and constructive findings and recommendations.

Mr. Davis said he has seen the effectiveness of the Panel in promoting mutual respect between citizens and county employees during his period of service. The Panel squarely took on the issue of Racial Profiling and provided decision makers with findings and recommendations that led to constructive legislation as well as improved policy and practice. The Panel did not back down from anonymous allegations of wrongdoing against an assistant police director and a major. The Panel and staff were commended for their “in-depth and exhaustive” investigation of allegations of abuse of authority in the Fire Rescue Department.

During his tenure, the Panel reviewed the police shooting of a young Black male during Martin Luther King Day activities. The Independent Review Panel reached this conclusion: MDPD failed to address the tactical decision to draw guns. This contributed to the public perception that MDPD finds it acceptable for officers to draw guns in a crowded area when there is no imminent threat to public safety. The MDPD Director agreed to use the Panel’s findings in training involving tactics, decision making and shooting policy.

Mr. Davis expressed appreciation for the opportunity to work with committed volunteer citizens who respond to allegations of wrongdoing with a desire to improve the way the County serves the public.

2003 Panel Members

Chairperson	1 st Vice Chairperson	2 nd Vice Chairperson
 <p data-bbox="245 688 448 720">Riley Davis, Jr.</p>	 <p data-bbox="657 688 954 720">Rev. James Phillips, Jr.</p>	 <p data-bbox="1175 693 1336 724">Heddy Peña</p>
 <p data-bbox="170 1045 521 1077">Sandra A. Antor, RN. BSN</p>	 <p data-bbox="683 1045 930 1077">Julia Dawson, Esq.</p>	 <p data-bbox="1092 1045 1419 1077">Jorge E. Reynardus, Esq.</p>
 <p data-bbox="227 1375 466 1407">Dorothy J. Rollins</p>	 <p data-bbox="683 1365 930 1396">Chief John S. Ross</p>	 <p data-bbox="1144 1356 1365 1423">Doris S. Shellow Substitute</p>
 <p data-bbox="199 1707 490 1738">Moiez A. Tapia, Ph.D.</p>	 <p data-bbox="652 1698 959 1730">John W. Thornton, Esq.</p>	 <p data-bbox="1062 1703 1448 1734">Min. Dr. Freeman Wyche, Sr.</p>

2003 Panel Members

Riley Davis, Jr., Chairperson, nominated by the Urban League of Greater Miami, Inc. Mr. Davis is Special Assistant to the President and CEO of the Urban League of Greater Miami. His focus is crime prevention and Black on Black crime intervention. In the past he worked for the Florida Department of Corrections and a Correctional Probation Specialist.

Rev. James Phillips, Jr., 1st Vice Chairperson, nominated by People United to Lead the Struggle for Equality (PULSE). Rev. Phillips is pastor of the Highland Park Baptist Church and past president of PULSE, a civil rights group established in 1981. He has a B.A. in psychology with an emphasis on chemical dependency.

Heddy Peña, 2nd Vice Chairperson, nominated by ASPIRA of Florida, Inc. Ms. Peña serves on the Boards of ASPIRA, a nonprofit organization devoted to education and leadership of Latino youth and SAVE Dade, a coalition created to push for equal right for gays and lesbians.

Sandra A. Antor, RN, BSN, nominated by the Black Affairs Advisory Board. Ms. Antor is of Haitian heritage. She is dedicated to her community and her church, and has volunteered on medical mission trips to Haiti. She works as a registered nurse at a local community hospital. Her interests are civilian oversight of law enforcement and conflict resolution.

Julia Dawson, Esq., nominated by the League of Women Voters. Ms. Dawson is a community activist committed to securing the human rights of all people. She has worked with many grassroots and non-profit organizations, including most recently SAVE (Safeguarding American Values for Everyone) and the Miami Workers Center.

Jorge E. Reynardus III, Esq., nominated by the Community Relations Board. Mr. Reynardus is a Senior Associate at Holland and Knight LLP where his practice focuses on commercial and international litigation. He is an attorney ad litem and works with the National Center for Missing and Exploited Children and Lawyers for Children America.

Dorothy J. Rollins, nominated by the Community Action Agency. Ms. Rollins currently is an Assisting Correspondence Secretary for the National Council of Negro Women, Inc. She also is a committed member of the American Cancer Society Board of Directors.

Chief John S. Ross, nominated by the Dade County Association of Chiefs of Police. Chief Ross serves as Chief of the Bay Harbor Islands Police Department. He also sits on the Miami-Dade Community College School of Justice and Safety Administration Advisory Board.

Moiez A. Tapia, Ph.D., nominated by Asian American Advisory Board. Dr. Tapia is a professor in the Electrical & Computer Engineering Department of the University of Miami. Dr. Tapia served as Chairman of the Islamic Center for many years. He is currently a member of the Board of Directors of the Urban League of Miami and a member of the Jew Arab Dialogue Association.

John W. Thornton, Esq. 1st Vice Chairperson, nominated by the Dade County Bar Association. Mr. Thornton is a partner at Thornton & Rothman, P.A., practicing in the area of federal and state criminal defense. Mr. Thornton is President-Elect of the Dade County Bar Association and Secretary of the Florida Bar Foundation, the philanthropic arm of The Florida Bar.

Min. Dr. Freeman Wyche, Sr., nominated by the African American Council of Christian Clergy. Dr. Wyche is Senior Minister of the Liberty City Church of Christ. He has served in the ministry for over 50 years.

IRP Staff



Eduardo I. Diaz, Ph. D.
Executive Director



Carol J. Boersma, LCSW
Executive Assistant
To the Director



Sagrario Lopez
Senior Executive Secretary

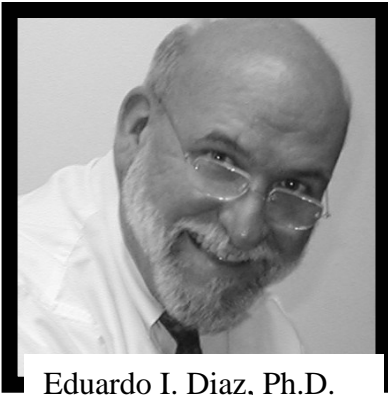


Patricia Nicolas
Office Support Specialist



***Debbie Penha
Cumbermack***
Conflict Resolution
Specialist

Executive Director's Message



Eduardo I. Diaz, Ph.D.

Staff has been encouraged by the Panel to engage in a variety of community building activities. One of the highlights of the year was the successful implementation of the **Firm, Fair and Friendly: Police Community Relations Leadership Program**, a collaborative effort with the Miami-Dade Police Department (MDPD) and the Community Relations Board (CRB). This involved a series of 8 workshops aimed at improving police/community relations.

The impact of the Independent Review Panel extends to non-county agencies. This year, both the State Attorney and the Public Defender responded with constructive actions to recommendations of the IRP. In addition, staff also provided consultation to the FBI, the Community Relations Service and other staff of the U.S. Department of Justice (DOJ), assisted the City of Miami's Citizens Investigative Panel (CIP) and Key West's Citizen Review Board (CRB), and conducted Alternatives to Violence workshops in Florida Department of Corrections facilities. At the request of the U.S. Embassy in Caracas, Venezuela, I conducted a three day workshop on Conflict Resolution and Alternatives to Violence and a conference at the Universidad Central.

I began service on the Board of Directors of the National Association for Civilian Oversight of Law Enforcement (NACOLE), for a three-year term, as an at-large member elected by my peers. I also moderated a session entitled ***Success in Civilian Oversight: Best Practices and Strategies to Counter Resistance*** at the 9th National Conference, September 23, in Los Angeles.

This was a very memorable year given the FTTA demonstration events in November and the subsequent IRP inquiry into police misconduct. Staff has a lot of work to do and we have had to make adjustments to our normal course of business as a consequence.

We are up to the challenges presented to us and remain committed to help make our excellent County departments get even better, by managing our transparent process with deep respect for the citizens who bring us their concerns and the employees who serve them.

History

Origin of the Panel

The Independent Review Panel is a unique combination of police review and “ombudsman” functions within one autonomous civilian oversight . It was created by ordinance to establish a broad-based, permanent Panel to review questionable administrative practices or policies and employee behavior, and to conduct public hearings on matters within the Panel’s jurisdiction. In authorizing review of complaints against *any* county government employee or department, the ordinance recognizes the importance of enhancing the ability of the citizenry to gain access to an impartial citizen dispute resolution mechanism, where the continued responsiveness of the county government can be monitored.

The Executive Director is appointed by the chief judicial officer of the Eleventh Judicial Circuit in Miami-Dade County, thus assure the independence of the Panel from political or administrative influence.

- The Panel does not have subpoena power.
- The Panel must rely on the County Attorney’s Office for legal counsel.
- The Panel includes employees of County government and a representative of the Association of Police Chiefs.
- The Panel’s membership does not reflect the multi-ethnic composition of the Dade County population.

The Task Force recommended that:

- The Panel be granted the power to issue subpoenas.
- The Panel be granted independent legal counsel.
- County employees be restricted from serving on the Panel.
- The Panel be increased to 13 members, with all members being nominated by specific community organizations representative of the socio-ethno-cultural-religious composition of the County.

Between 1990 and 1993, there were rounds of community, Panel, police, attorney and commissioner negotiations to revise the Independent Review Panel. The Black community and Black commissioners wanted a powerful, investigative Panel. The police and some White commissioners saw no need for change, while other commissioners and the police union opined that a civilian oversight body was unnecessary. During this time two other significant recommendations were made to enhance the

independence of the Panel: 1) Have the Panel budget submitted directly to Board of County Commissioners, rather than to the County Manager for his recommendation to the Board, and 2) Give the Panel the specific authority to initiate its own investigations, regardless of whether or not a citizen has filed a complaint about an incident.

In January 1993, the Board approved the First Reading of revisions to the enabling ordinance that would:

- Change name of the Independent Review Panel to Citizens Investigative Panel
- Change membership from 9 to 21
- Provide for independent counsel
- Provide for the initiation of investigations

The proposed revisions did not make it to Second Reading (public hearing).

Attempted Administrative Changes

In 1995, a Government Operations Committee recommended that “the IRP investigatory functions be transferred to Team Metro,” a county department which has the dual function of improving public access to county government and code enforcement, and reports to the County Manager. The Panel successfully opposed the transfer, which would have decimated the legislative intent of the enabling ordinance to create a mechanism for external community fact-finding and dispute resolution.

Whistler Blower Amendment

In 1996, the Board of County Commissioners found that it was in the best interest of Miami-Dade County to ensure that persons who have knowledge of unlawful activity, misfeasance or malfeasance by the County or independent contractors report such knowledge to the appropriate authorities for investigation and corrective action. In order to encourage persons to report such information without fear of reprisal, the Board amended the ordinance, giving the Panel the authority to consider retaliation complaints when requested to do so by the County Manager. The amendment provided for subpoena power in the review of retaliation complaints.

Composition Amendment

Eduardo I. Diaz, Ph.D. came on board as Executive Director in 1996. The Independent Review Panel took a new direction under the leadership of Dr. Diaz, a Peace Psychologist. His immediate goals were to make the Panel membership reflect the multi-ethnic composition of Miami-Dade County, and establish clear accountability for the Executive Director.

The Panel supported Dr. Diaz' goals, and within a year, the Board amended the ordinance to provide for the appointment of four additional members by the Panel members themselves, considering race, ethnicity and gender. At the same time, the three nonpermanent members and the County Manager's appointee were eliminated, resulting in a nine-member Panel with three-year terms. A provision was also included to provide for service by former Panel members in the absence of a current member or in case of a vacancy.

That same year, 1997, the Board approved another ordinance change, passing the responsibility for the Executive Director's salary adjustments from the Board to the Chief Judge.

2002 Proposed Ordinance Language

Early in 2002, the Panel approved an ordinance revision recommendation to the Board that would grant the Panel subpoena power in all complaints. The proposed revision was not sponsored by a commissioner. In June 2002, the Board considered structural changes for the IRP but none of the proposals were approved. The status quo prevails.

Authority and Powers

Granted by Miami-Dade County Code Article IC.

The Independent Review Panel was created as a mechanism for external community fact-finding and dispute resolution. It was the intent of the Board of County Commissioners that the impartial panel conduct independent reviews and hold public hearings concerning serious complaints or grievances made against an employee, agency or instrumentality of Miami-Dade County.

THE PANEL MAY

Hold public hearings, make factual determinations, draw conclusions, propose recommendations, and prepare reports.

Request any person, including the supervisor of the Internal Review Section of the Miami-Dade Police Department, to give sworn testimony or to produce documentary or other evidence.

Demand, examine and duplicate public records and documents in accordance with the provisions of Chapter 119, Florida Statutes.

Enter and inspect any premises under the jurisdiction or control of Miami-Dade County or any of its agencies or instrumentalities.

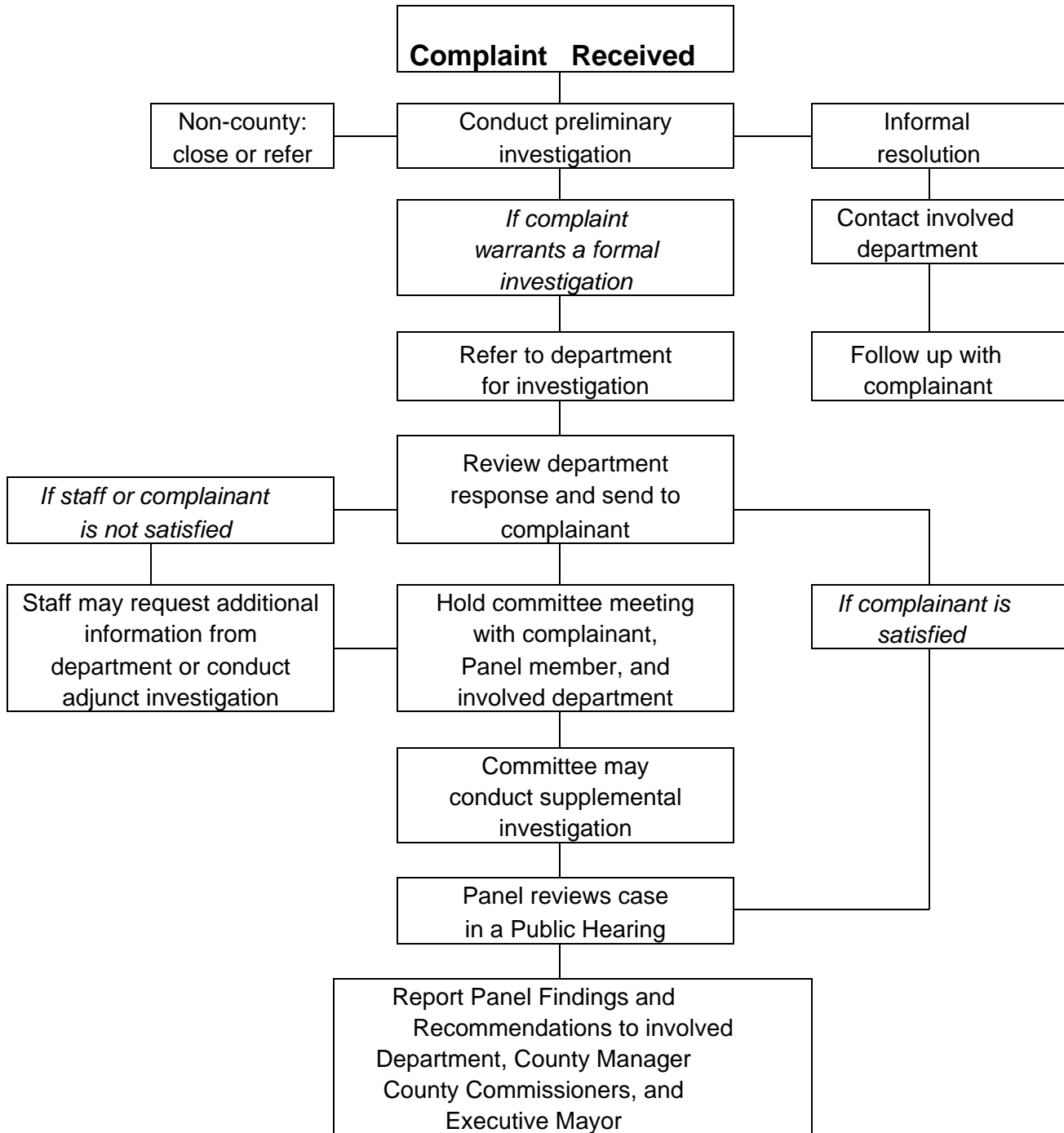
Conduct or participate in conferences, inquiries, meetings or studies.

Request the County Attorney to render opinions relating to its duties, jurisdiction or power.

Adopt, promulgate, amend and rescind such rules of procedure as may be necessary to exercise its authority.

Consider complaints against municipal governments located within Miami-Dade County, *if* a municipality formally requests the Panel to exercise jurisdiction.

Complaint Flow Chart



Complaint Distribution

1/1/03 through 12/31/03

Department	A	B	M	MU	PC	Other	Total
	Formal Investigation Requested	Resolved Informally or Referred	Misc	Municipalities of Miami-Dade County	Job Related Complaints	All Others	
Aviation Department	0	1	0	0	0	0	1
Board of County Commissioners	0	1	0	0	0	0	1
Building Code Compliance	0	1	0	0	0	0	1
Building Department	0	4	0	0	0	0	4
Clerk of the Courts	0	7	0	0	0	1	8
Commission on Ethics	0	1	0	0	0	0	1
Corrections & Rehabilitation	1	10	0	0	2	0	13
Community Action Agency	0	2	2	0	2	0	6
Community & Economic Dev.	0	0	0	0	0	0	0
Consumer Services	0	1	0	0	0	0	1
DERM	0	1	0	0	0	0	1
Elections	0	1	0	0	0	0	1
Employee Relation Department	0	0	0	0	0	0	0
Finance Department	0	8	2	0	0	1	10
Fire Department	0	1	0	0	1	0	2
General Services Admin.	0	2	0	0	0	0	2
Human Services Department	1	1	0	0	0	0	2
I.T.D.	0	0	0	0	1	0	1
Jackson Memorial Hospital	0	0	1	0	0	0	1
Library	0	1	1	0	0	0	2
Miami-Dade Housing Agency	0	10	0	0	1	0	11
Miami-Dade Police Department	19	49	6	0	0	0	74
Miami-Dade Transit Agency	0	8	0	0	5	0	13
Water & Sewer Department	3	17	0	0	0	0	20
Park & Recreation Department	0	5	0	0	0	0	5
Planning & Zoning	0	0	1	0	0	0	1
Procurement Management	0	0	0	0	1	0	1
Property Appraisal Department	0	0	0	0	0	0	0
Public Works Department	0	9	0	0	0	2	9
Seaport Department	0	0	0	0	1	0	1
Solid Waste Department	6	17	0	0	0	0	23
Team Metro	0	14	3	0	1	0	17
Unknown/ Non county	0	2	41	30	1	53	127

TOTALS

30

173

57

31

15

54

360

Meeting Protocol

I. Welcome & Introduction

The Chairperson welcomes those present and gives a brief introduction of the role and function of the Independent Review Panel (IRP).

The function of the Independent Review Panel is to provide impartial, independent, and open investigation and disposition of serious complaints of alleged wrongdoing. The Panel may also review procedures and policies or general patterns of conduct which gives rise to conflict and misunderstanding between the County and the public. The Panel's rules of procedure state that the Panel shall "promote the highest possible degree of mutual respect between the agencies, instrumentalities and employees of Miami-Dade County and the people of Miami-Dade County."

II. Review Format for Complaints

The Chairperson presents the format for complaint review. The focus of the complaint review will be on the findings and recommendations in the "Recommendation to the Panel" report. Panel member/Panel staff overview should include:

- The Complainant's Allegations.
- The Department's Findings to the Allegations
- The Critical Issues Discussed in the Committee Meeting.
- The Committee Findings & Recommendations.

III. Invitation to Speak Before the Panel

- A. The Chairperson invites the complainant to sit at the guest table to provide any new information that is not included in the "Staff/Committee Recommendation to the Panel" report, and/or to comment on the findings and recommendations in the report. After the complainant speaks, the representatives from the department will be invited to do the same. It is recommended that the parties not repeat what is in the report.
- B. The Panel members may direct questions regarding any aspect of the complaint and/or investigation to the complainant and/or the department representatives. Questions may also be directed to Panel staff. All parties who wish to speak must ask to be recognized by the Chairperson. Any questions a party may wish to ask another party must be directed through the Chairperson, and not to each other.

IV. Panel Vote

The Chairperson closes the period of public comment and the Panel then commences discussion. The Panel renders its disposition by way of a motion.

V. Appreciation

The Chairperson thanks the complainant and department representatives for their participation and advises that each one will receive a copy of the Panel Disposition Report.

Sample Cases Reviewed in 2003

Martin Luther Day police Shooting

A young Black male was shot to death following the Martin Luther King Day parade on January 21, 2002. Hundreds of bystanders, many of them parade-goers, were in the vicinity. It was about six o'clock in the evening. Traffic was heavy.

The shooting occurred while the victim and three passengers were stuck in traffic. Robbery Intervention Detail (RID) officers ran a check on the vehicle. It was reported stolen in another city. What outraged the NAACP and The Miami Times was what the newspaper called “the absolute and total disregard for the lives of bystanders...” Police – there were five officers in all – had confronted the vehicle with their guns drawn. One of the officers wound up on the hood of the vehicle when the driver would not stop. Aiming through the windshield, he shot and killed the driver.

The State Attorney's Office said the shooting, under state law, was “justified.” The Miami Dade Police Department exonerated the officer.

Some of the Independent Review Panel's findings:

- Officers violated the MDPD firearms policy, which, in part, forbids “unreasonable risk to the safety of persons other than the subject.”
- Approaching the stolen vehicle with weapons drawn, the officers increased their likelihood of using deadly force.
- The officer who wound up on the hood of the vehicle *placed himself* in danger, walking between the vehicle and a truck in front of it.
- No documentation exists on the decision-making process regarding the use of guns; the officers and their supervisor communicated on a radio frequency that did not record the conversation.
- The MDPD Shooting Investigation did not address the issue of the officers' decision to approach the stolen vehicle with weapons drawn.

The Panel also recommended that the State Attorney's Office use more caution before categorizing a shooting as “justified,” in order to avoid a potentially inflammatory reaction from the public.

Double Billing for Garbage Pickup

Faircloth Sanitation, Inc., a private waste hauler, had numerous unhappy customers. As a result of a court order in 2002 for failure to pay appropriate county fees, Faircloth was forbidden to remove, collect or transport waste. The county had revoked the company's permit in 1998, but continued to work with Faircloth even after the court injunction in April 2002. Finally, in August 2002 – after four years, an accumulation of thousands of dollars in fees, and some bounced checks – Faircloth lost its permit for good.

The County took over garbage collection but Faircloth continued to collect payments from some customers. Several Faircloth customers filed complaints with the IRP between April and October of 2003. The complainants alleged that, when the Department of Solid Waste Management (DSWM) replaced Faircloth as their garbage collector the DSWM did not notify them in a timely or effective manner. As a result, they paid bills from Faircloth Sanitation and were later billed by DSWM for the same service.

The Panel found that DSWM did not notify its customers in a timely and effective manner.

Some of the Independent Review Panel's findings:

- DSWM provided notification flyers to customers in January 2003. It took over garbage collection, however, in August 2002.
- Many Faircloth customers did not receive the flyers and continued paying Faircloth.
- who received an informational letter from DSWM dated October 6, 2003.
- While negotiating with Faircloth from 1998 to 2002, DSWM did not establish a contingency plan in case Faircloth stopped providing service to its customers.
- The County committed no wrongdoing, per se, but customers who paid both Faircloth and DSWM should receive some form of compensation from the County.

In a related development, the Consumer Protection Division of the Consumer Services Department has filed suit against Faircloth on behalf of Faircloth customers.

Police Director Determines No Corrective Action Needed

An anonymous complainant claimed that a February 2001 case of alleged sexual misconduct by an off-duty MDPD police officer was being “swept under the rug.” It was suggested that the matter was being influenced by the status of the officer's parents, both of whom were prominent in the federal criminal justice system.

In her statement to the Sexual Crimes Bureau, an 11-year-old girl stated that the officer “touched my thigh.” The officer, when asked if he “patted the little girl on her leg,” responded: “Yes I did.” He admitted to touching the girl “a few” times. She was a family friend.

The MDPD Disposition Panel did not uphold sexual misconduct charges, but it did determine that the case involved “Conduct Unbecoming an Officer.” The State Attorney’s Office concluded that there was probable cause that the crime of lewd or lascivious conduct occurred. No criminal charges were filed, however, because the victim’s family would not cooperate. They *would* cooperate, however, with any *administrative* action taken by MDPD. The MDPD Disposition Panel recommended that such administrative action involve termination. The officer’s file, however, reflected no disciplinary action: The Police Department Director exercised his authority to determine that no corrective action or discipline be required, in spite of the MDPD Disposition Panel conclusions.

Some of the Independent Review Panel’s findings:

- There was no “cover-up” of the case: the file was intact and documentation is part of the public record.
- There is no evidence to suggest that the officer’s parents influenced the disposition of the case.
- MDPD should impose some form of discipline on the officer: It was determined that he misrepresented the facts of the incident.
- MDPD should adopt a procedure to require the Director to *explain in writing* any opposition to an MDPD Disposition Panel recommendation.

Police Officer Gives Medical Advice

A Black male was arrested behind Eureka Park in the Richmond Heights area. He was a passenger in a car that was parked with the headlights off. It was just minutes after midnight; the complainant had just turned 35 years old.

A female was in the driver’s seat. As an officer approached the vehicle, he discovered that the female was partially undressed. He ordered the male out of the vehicle. In the process, a scuffle ensued.

The male alleged that he was struck and handcuffed without cause. He claimed that officers rinsed the blood from his injuries without justification. Further, he claimed that a particular officer was discourteous to him and interfered with his nursing care after he was transported to Jackson Memorial Hospital South. Additionally, he didn’t get his clothes back and he blamed an officer for that. He was charged with possession of cocaine and resisting arrest.

The female also was arrested. The next day, the man – and his wife – filed a complaint with the Independent Review Panel.

Some of the Independent Review Panel’s findings:

- MDPD’s Internal Affairs investigation was appropriate and thorough.
- The IRP upheld the MDPD Disposition Panel’s findings, which concluded that the allegations, with one exception, were unfounded. The exception: One of the officers received a written reprimand for his behavior at Jackson Memorial Hospital South. Hospital staff corroborated the

complainant's allegation that the officer's comments and general demeanor were negative and discourteous.

Arrested Without His Knowledge

A young male, applying for a position as a Miami-Dade Correctional Officer, was rejected when it was discovered that he had a juvenile arrest record for armed robbery and related charges. The male insisted that he never had been arrested and had no prior knowledge of the alleged incident – six years prior – or the subsequent arrest.

Research revealed that the investigating officer spoke with the alleged victims, who identified the young man from a school yearbook at the time. The officer, however, said he could not locate the student after several attempts. Consequently, he forwarded Complaint/Arrest Affidavits to the Juvenile State Attorney's Office.

The young man alleged that he was charged without his knowledge and without a proper investigation. He wanted his name cleared.

Some of the Independent Review Panel's findings:

- Current MDPD procedures allow for the creation of an arrest record even when no physical arrest has been made.
- The average citizen likely perceives those procedures as unfair and improper.
- MDPD and the State Attorney's Office should work together to eliminate the possibility that an arrest record can be created without the arrestee's physical presence or knowledge.

The MDPD Director advised the IRP that MDPD representatives and State Attorney's Office representatives met to discuss arrest policies and procedures. The policies and procedures are being reviewed and revised.

Sunset Review Questionnaire

The chairperson of each County Board is required to submit a report every two years to the County Manager who forwards it, with his recommendation, to the Board of County Commissioners (BCC). The BCC then makes a determination whether to abolish, continue, consolidate or modify the Board. The following is the Independent Review Panel report for calendar years 2001-2002, submitted in February 2003.

I. GENERAL INFORMATION

1. **Board reporting:** Independent Review Panel
2. **Number of board members:** Nine (9) Members

Terms of office: Three (3) Years

Number of vacancies: One (1)

Current Members:

Julia Dawson, Esq., *nominated by the League of Women Voters*

Riley Davis, Jr., *Chairperson, nominated by the Urban League of Greater Miami, Inc*

Rev. James Phillips, Jr., *1st Vice Chairperson, nominated by People United to Lead the Struggle for Equality (PULSE)*

Jorge E. Reynardus, Esq., *2nd Vice Chairperson, nominated by the Community Relations Board*

Moiez Tapia, Ph.D., *nominated by the Asian American Advisory Board*

Dorothy J. Rollins, *nominated by the Community Action Agency*

Chief John S. Ross, *nominated by the Dade County Association of Chiefs of Police*

John W. Thornton, Esq., *nominated by the Dade County Bar Association*

Sandra A. Antor, RN. BSN, *nominated by the Black Affairs Advisory Board*

3. **Number of Panel meetings 1/1/01 through 12/31/02:** Twenty-four (24)
4. **Source of funding:** The County General Fund, ad valorem taxes.
5. **IRP Ordinance and Rules of Procedure:** See Page 24 and Page 30

II. EVALUATION CRITERIA

1. Is the Independent Review Panel serving the purpose for which it was created?

Yes, the IRP is actively engaged in external fact-finding and dispute resolution. It fulfills its legislative mandate to conduct independent reviews of serious complaints against employees, agencies and instrumentalities of County government through regularly scheduled public hearings.

2. Is the Independent Review Panel serving current community needs?

Yes, the community needs an independent, non-adversarial venue in which to resolve conflicts between its citizens and its government. The IRP provides for citizen oversight that is independent and free of conflicts of interest. Committed volunteer Panel members listen to the people and to representatives of County Departments, and make recommendations to improve the way the County conducts business.

3.a. Major accomplishments - Last 24 months

Investigated, at the request of former Fire Chief R.D. Paulison, allegations of verbal abuse, abuse of authority, hazing and unfair administration of discipline in the Fire Rescue Department.

IRP staff took statements from 24 people, after which a three Panel member committee conducted a Fact Finding and Dispute Resolution community meeting at the Caleb Center. About 50 people attended. Following that meeting, a public hearing was held where the full Panel made findings and recommendations regarding Rank And File, the Firefighter Family, Probation, Authority, Pranks, Discipline, Conflict Resolution, Harassment, Punishment, The Truth, Racism, Progressive Firefighters Association and the Fire Board.

Panel Member Ed Guedes, Esq., stated the following at the end of the hearing:

“In the seven years I have served on the IRP, I have never seen an IRP committee do as in-depth and exhaustive an investigation as the one that was done in connection with the MD Fire Department. Both Panel members and staff deserve the highest praise. In a similar vein, the Fire Department also merits praise. The attitude of the highest ranks of the department, from the Chief down, was remarkable. They welcomed the IRP’s participation and they recognized the process for what it is – an attempt by the IRP and the Department to find ways to improve the performance and perception of the Department.”

Created, in conjunction, with the CRB and MDPD, the *Firm Fair and Friendly: Improving Community/Police Relations* Workshops.

The purpose of the workshops is to bring police officers and citizens together, in structured sessions, to seek understanding regarding the perceptions and actions of each other, and to create action ideas for improving relations in our community. There are twenty participants, ten citizens and ten police officers.

Two demonstrations were held, the first with IRP members, other civilians and law enforcement personnel, and the second at the annual Community Relations Board Conference. The seven week Leadership Program commenced January 8, 2003.

Promoted enhanced community/police relations on the local, national and international level.

The Executive Director was actively involved in all three levels:

At the request of the US State Department, Dr. Diaz spent a week in the Dominican Republic, giving workshops on civilian oversight of law enforcement to police officials, grassroots leaders, youth groups, law students, and university professors.

Dr. Diaz was elected to the Boards of the National Association of Civilian Oversight of Law Enforcement (NACOLE) and the International Association of Civilian Oversight of Law Enforcement (IACOLE).

Dr. Diaz created the "Citizen Oversight of Police: 2001 Fact Sheet," which was distributed to various agencies in Miami-Dade County and civilian oversight agencies nationwide.

Dr. Diaz conducted a one-day retreat for the new Community Relations Board and additional training and consultation for the Office of Community Relations (OCR) staff.

Dr. Diaz consulted with people in Miami regarding the preparation for implementation of the City of Miami Citizens Investigative Panel.

Mediated Complaints involving 23 Departments.

Made 47 Recommendations to improve Miami-Dade County service to the public.

Examples:

That MDPD implement a Standard Operating Procedure that provides the complainant the same rights to representation or accompaniment as the subject officer.

That MDPD create a brochure that informs the citizenry about the laws and ordinances regarding truancy, and what to expect when approached by an officer who suspects that an individual may be truant.

That MDPD develop a written method to track when Personalized Patrol Vehicle Program (PPVP) vehicles are relinquished to a supervisor.

That MDPD correct erroneous information in the Field Interview Reports (FIR) of three different complainants.

That Team Metro take a proactive approach to code enforcement when there is pictorial or otherwise documented evidence provided by citizens, even when the evidence may be challenged in an appeal hearing.

That MDFR revise its policy and practice regarding media contacts by employees, whether on or off duty, to minimize dissemination of misinformation, negative impact on employee morale and damage to the Department's reputation in the community. This needs to be done in a manner that does not infringe on an employee's rights while protecting teamwork integrity essential to effective firefighting.

Enhanced public awareness through bus and train posters advising that Racial Profiling is prohibited.

Held Public Hearings on a regularly scheduled basis, one per month.

Received a total of 868 requests for service.

3.b. Major accomplishments since established?

Contributed to the adoption of "Zero Tolerance of Racial Profiling" legislation, policy and practice in Miami-Dade County

- IRP staff compiled data from information provided by 28 of the 30 local police departments and prepared a report entitled "Police Complaints and Race: An Independent Review Panel Preliminary Staff Report."
- A public hearing, sponsored by the IRP, Congresswoman Carrie P. Meek and Commissioner Dr. Barbara Carey-Shuler was held in the Caleb Center on December 1, 1999. Fifty-four speakers gave testimony on "Driving While Black/Racial Profiling."
- The Panel released a report entitled "Police Complaints & Race: IRP Findings & Recommendation," in which the Panel recommended that the Board of County Commissioners: Consider appropriate legislative action to encourage or require local police departments to collect race, gender, age & ethnicity data on all arrests and stops, and pass a "Zero Tolerance of Racism Ordinance."

Commended a Miami-Dade Police Department Disposition Panel for its diligence in addressing procedural violations that were not part of the complainant's allegations.

Recommendations made by the Panel resulted in the expansion of MDPD Professional Compliance investigations to include Personnel Complaints as well and Internal Affairs Complaints.

Recommendations made by the Panel resulted in revisions to Corrections & Rehabilitation Standard Operating Procedures which expedited the movement of complaints through the system, created an employee profile system, improved promotional procedures, and initiated a review of disciplinary action policy to ensure that appropriate and timely discipline is taken to address officer misconduct.

The IRP was restructured by Ordinance 97-86, resulting in a new expanded Panel of nine members and improved the ethno-cultural and gender balance by the appointment of four new members.

The IRP published a brochure entitled “Citizens Guide to County Accountability” that is available in English, Spanish and Haitian Creole.

The IRP process was recognized by the U.S. Department of Justice as worthy of sharing with other communities.

Developed a handout addressing ordinances regulating mobile vendors. This handout was distributed by the Tax Collector’s Office, Occupational License Section.

Assisted in the Corrections & Rehabilitation Department in creating procedures to improve the medical treatment of paraplegic inmates.

Caused significant improvements in the physical plant, policy, operations, management and public relations of Animal Care and Control while it was under the jurisdiction of the Public Works Department.

Assisted the Dade County Department of Housing and Urban Development (HUD) in expediting the process which resulted in the replacement of a roof and the immediate restoration of elevators in a HUD owned building, which housed elderly and disabled persons.

4. Is there any other board, either public or private, which would better serve the purpose for which the Independent Review Panel was created?

No, there is no other body currently providing civilian oversight of the Miami-Dade Police Department, nor is there a body that provides independent dispute resolution services to improve how the County relates to the community it serves.

5. Should the ordinance creating the Independent Review Panel be amended to better enable the Panel to serve the purpose for which it was created?

In June of 2002, the Board of County Commissioners considered changes to the ordinance resulting in no mandate to change the enabling ordinance. While there has been a consistent public call for the ordinance to be amended to grant the Panel subpoena power and clear jurisdiction over Miami-Dade County municipalities, no change is advisable at this time.

6. Should the board's membership requirements be modified?

No, the current requirements provide for gender and ethno-cultural representation consideration.

7. What is the operating cost, both direct and indirect, of maintaining the Independent Review Panel?

FY 00-01	\$404,000
FY 01-02	\$412,000
FY 02-03	\$421,000
FY 03-04	\$463,000

8. Performance measures developed to determine Panel's effectiveness in achieving its stated goals.

Standard professional evaluations are improvement oriented and of a continuous sequential nature, focusing first on structure, then process, then outcome evaluation followed by informed change and more of the same. The IRP performance measures are process oriented, and are best expressed in qualitative terms as opposed to numbers or percent of disputes resolved. Quantitative information is rarely appropriate given that traditional measures of success such as establishing the satisfaction of one party in a dispute tend to diminish the value of the process itself and the discoveries that are made therein.

Process Integrity Performance Measures

Is everyone treated with respect?

Are Panel members alert to perceived injustice?

Does the Panel command respect in the community?

Does Panel staff take care to listen, report fairly and look out for injustice from multiple socio-cultural perspectives?

Are investigations of powerful alleged wrongdoers pursued like others?

Are County Departments provided unbiased feedback on how to improve service to citizens?

Is Complaint Prevention Skills training proactively offered?

Are public resources efficiently and effectively utilized?

Are fact-finding and dispute resolution meetings held at times and locations convenient to the citizens?

Is the public well informed of Panel process availability?

The answers to these questions may be depicted in a variety of ways at different times, but what is most important is that they be frequently asked and answered by Panel members and staff. For now, the overall assessment of the currently constituted Panel is indicated bold on the scale that follows:

	1	2	3	4	
	5				
NEVER	HARDLY EVER	SOMETIMES	<u>ALMOST ALWAYS</u>	ALWAYS	

Panel Member Attendance

<i>Panel Members</i>	<i>Appt. Date</i>	1/23/03	2/27/03	3/27/03	4/24/03	5/22/03	6/26/03	7/24/03	8/28/03	9/25/03	10/23/03	11/25/03	12/18/03
<i>Riley Davis, Jr.</i>	11/5/1997	P	P	E	P	E	P	P	P	E	E	P	P
<i>Rev. James J. Phillips, Jr.</i>	11/5/1997	P	E	P	P	E	P	E	P	P	E	P	P
<i>Heddy Peña</i>	11/5/1997	E	P	P	P	E	P	E	E	P	P	T	_____
<i>Jorge E. Reynardus, Esq.</i>	6/4/2002	P	P	E	P	E	P	P	P	P	P	P	P
<i>Sandra Antor, RN, BSN</i>	9/25/2003	_____	_____	_____	_____	_____	_____	_____	_____	_____	E	P	P
<i>Dorothy J. Rollins</i>	4/26/2001	E	P	P	P	P	E	E	P	P	E	E	E
<i>Chief John S. Ross</i>	4/10/2001	P	E	P	E	P	P	E	P	P	E	E	E
<i>Doris J. Shellow, substitute</i>	7/27/1989	P	P	_____	P	_____	P	P	P	P	P	P	P
<i>Moiez Tapia, PhD</i>	9/25/2003	_____	_____	_____	_____	_____	_____	_____	_____	_____	E	E	P
<i>John W. Thornton, Esq.</i>	9/26/2002	E	E	P	P	P	E	P	P	P	P	P	P
<i>Julia Dawson</i>	10/21/2003	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	P	E
<i>Min. Dr. Freeman Wyche, Sr.</i>	11/5/1997	P	P	E	E	P	E	E	P	E	P	T	_____

Key: A - Absent
P - Present
E - Excused
T - Term Expired

County Code ARTICLE IC.

Sec. 2-11.41. Legislative intent and purpose; liberal construction.

The purpose of this article is to create a mechanism for external community fact-finding and dispute resolution. It is the intent of the Board of County Commissioners that the impartial review panel created by this article conduct independent reviews and hold public hearings concerning serious complaints or grievances made against an employee, agency or instrumentality of Miami-Dade County. It is also the intent of the Board of County Commissioners that the Independent Review Panel conduct hearings as provided in Chapter 2, Article LXXI of the Code where there is a complaint of retaliation for the disclosure of specific information. The provisions of this article shall be liberally construed to accomplish these legislative objectives.

Sec. 2-11.42. Created, established.

There is hereby created and established an Independent Review Panel (hereinafter referred to as the "Panel") pursuant to Section 4.08(a) of the Miami-Dade County Home Rule Charter.

Sec. 2-11.43. Composition; appointment and terms of office; compensation, oath; attendance at meetings, vacancies.

(A) The Panel shall consist of nine (9) members, each of whom is a qualified elector of Miami-Dade County and possesses a reputation for civic pride, integrity, responsibility and has demonstrated an active interest in public affairs and service.

(1) Members:

(a) In order to secure representative membership on the Panel, each of the following five (5) community groups or organizations shall submit a list containing the names of three (3) qualified persons [and] the Board of County Commissioners shall select one (1) panel member from each of the five (5) lists:

- (i) The Community Relations Board.
- (ii) The Community Action Agency.
- (iii) The Miami-Dade County League of Women Voters.
- (iv) The Miami-Dade County Bar Association.
- (v) The Miami-Dade Police Chiefs' Association. Each nominee by the Miami-Dade Police Chiefs' Association shall be an Association member. In the event the Panel is investigating an incident involving the jurisdiction employing this appointee, the Miami-Dade Police Chiefs' Association shall submit the names of three (3) different members for an appointment as a substitute until the conclusion of the investigation. In

the event that none of the three (3) nominees meets with County Commission approval, the nominating entity shall submit another and entirely different list for Commission consideration. This process shall continue until a member has been appointed.

(b) In addition to the five (5) Panel members selected in accordance with the preceding subparagraph (a) of paragraph (1) of this subsection, four (4) members shall be appointed by the Panel based on consensus of integrity and community representation, considering ethno-cultural and gender balance. The foregoing appointments shall constitute the membership of the Panel, and each member shall serve for a period of three (3) years. The Board of County Commissioners may extend this term if necessary to complete any pending investigation(s).

(2) Nonpermanent members. In addition to the foregoing, former Panel members may serve as substitute Panel members, given advance notice of absence of current members or vacancy pending appointment.

- (B) Members of the Panel shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their official duties as shall be determined and approved by the Board of County Commissioners. Before entering upon the duties of office, each member shall submit written acceptance of appointment and subscribe to the oath of office prescribed by law, which shall be filed in the Office of the Clerk of the County Commission.
- (C) Any Panel member shall be automatically removed if absent for three (3) consecutive meetings without a satisfactory excuse or if absent from more than one-half of the Panel's meetings during his or her term of office. A Panel member shall be deemed absent from a meeting when not present at the meeting at least seventy-five (75) percent of the time. The provisions of this section may be waived by a two-thirds vote of the members of the full Board of County Commissioners. Any vacancy shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy shall serve for three (3) years from the date of appointment.

Sec. 2-11.44. Organization and procedures.

- (a) The members of the Panel shall select a chairperson to serve at the pleasure of the Panel, together with such other officers as may be deemed necessary by the Panel.
- (b) A simple majority of the constituted members of the Panel attending a Panel meeting or hearing shall constitute a quorum.
- (c) All action by the Panel shall be by majority vote.
- (d) All Panel proceedings shall be conducted in accordance with the Government-in-the-Sunshine Law, Section 286.011, Florida Statutes.

- (e) All Panel proceedings shall be conducted in accordance with the provisions of the Citizens' Bill of Rights of the Miami-Dade County Home Rule Charter.
- (f) The Panel shall be deemed an "agency" for purpose of compliance with the Public Records Law, Chapter 119, Florida Statutes.

Sec. 2-11.45. Authority and powers generally.

- (a) The Panel may hold public hearings, make factual determinations, draw conclusions, propose recommendations, and prepare interim and final reports on matters relating to serious complaints or grievances made against an employee, agency or instrumentality of Miami-Dade County. The Panel may also hold hearings, render findings of fact and conclusions of law and issue recommendations, as provided in Chapter 2, Article LXXI of the Code. The Panel shall have the authority and responsibility to determine whether complaints or grievances are sufficiently serious to institute a review process.
- (b) The Panel may adopt, promulgate, amend and rescind such rules of procedure as may be necessary to exercise its authority; provided, however, that no rules shall conflict with the provisions of this article.
- (c) The Panel may demand, examine and duplicate public records and documents in accordance with the provisions of Chapter 119, Florida Statutes, as may be amended from time to time.
- (d) The Panel may enter and inspect any premises under the jurisdiction or control of Miami-Dade County or any of its agencies or instrumentalities.
- (e) The Panel may request any person, including the supervisor of the Internal Review Section of the Miami-Dade Police Department, to give sworn testimony or to produce documentary or other evidence.
- (f) The Panel may conduct or participate in conferences, inquiries, meetings or studies.
- (g) The Panel may request the County Attorney to render opinions relating to its duties, jurisdiction or power.
- (h) The Panel shall not interfere with any ongoing criminal investigation of the State Attorney.

Sec. 2-11.46. Panel proceedings.

Panel members shall meet with staff from time to time:

- (1) To consider the County's complaint review processes and investigatory activities designed to serve the public; and
- (2) To consider whether any complaint or grievance filed with the Panel is sufficiently serious to merit review by the full Panel.

Full panel meetings shall be scheduled monthly and with appropriate notice given to the public.

Sec. 2-11.47. Interim reports during pending review.

At least every thirty (30) days, the Panel shall receive interim reports from staff with regard to each pending review.

Sec. 2-11.48. Final reports on matters reviewed; referral for further proceedings.

The Panel shall publish a final report with regard to each matter reviewed. Said final report shall be transmitted simultaneously to the Board of County Commissioners, the County Manager and the director of the concerned County department. If the Panel has reason to believe that any public official, employee or other person warrants criminal or disciplinary proceedings, it shall refer the matter to the appropriate governmental authorities.

Sec. 2-11.49. Simultaneous reviews.

The Panel may review more than one (1) incident at the same time.

Sec. 2-11.50. Immunity of Panel members from suit.

The Panel members shall be, to the full extent permitted by law, immune from any suit based upon any action or report undertaken within the scope of the Panel's duties or powers as provided in this article.

Sec. 2-11.51. Physical facilities and staff.

- (a) Office space, etc.; auditorium. The County shall provide the Panel with appropriately located office space and auditorium facilities together with necessary office supplies, equipment and furnishings.
- (b) Executive Director. The Panel shall have an Executive Director who shall be appointed by the Chief Judge of the Eleventh Judicial Circuit, and who shall, in consultation with the County Manager, establish the rate of remuneration of the Executive Director.
- (c) Staff. The Executive Director may hire and administer the necessary staff, subject to budgetary allocation by the Board.
- (d) Legal counsel. The County Attorney shall provide the Panel with necessary legal counsel.
- (e) Research, investigative personnel. The Panel may request the Board to provide such other fact-finding and research personnel as it may determine are necessary from time to time.

Sec. 2-11.52. Municipal utilization of Panel authorized.

At the request of any municipality, on a case-by-case basis or for a time certain, the Panel may assume jurisdiction to consider complaints of citizens against any employee, agency or instrumentality of said municipality. The Panel may proceed to consider, review, investigate and conduct hearings relative to such complaint or grievance. In such event, all references to the County or County officers, employees or representatives shall be determined to be references to the municipality and to the municipal officers, employees or representatives who serve in comparable capacities.

Rules of Procedure

*Approved 11-24-98
Section 3.5 modified 11-18-99*

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SECTION 1. PURPOSE

It is hereby declared to be the purpose of these rules of procedure to facilitate the independent review process in Miami-Dade County, Florida, which shall be based on due regard for the Constitutional Rights of all persons, and which shall promote the highest possible degree of mutual respect between the agencies, instrumentalities and employees of Miami-Dade County and the people of Miami-Dade County.

In order that this purpose be achieved, the Independent Review Panel shall receive, consider, investigate and provide a public forum for the airing of serious complaints or grievances brought by the Public against any employee, agency or instrumentality of Miami-Dade County, Florida. These rules provide for the impartial, independent, open and prompt investigation and disposition of complaints and grievances in a manner which protects both the Public and the County agencies, instrumentalities or employees who are involved in such complaints. The Panel will encourage members of the public to bring forward legitimate complaints of abuses and allegations of improper conduct, as it is imperative that they be able to communicate freely to the Panel their dissatisfaction with County services or with the particular conduct of individual employees or agencies of the County. The provisions of these rules shall be liberally construed to achieve these objectives.

It is a further purpose of these rules to facilitate the ability of the Independent Review Panel to review the established County procedures and policies or general patterns of conduct which give rise to conflict and misunderstanding between the County and the Public, and to make recommendations to the appropriate authorities regarding revision of said policies and procedures.

SECTION 2. DEFINITIONS

Wherever used in these rules, unless plainly evident from the context that a different meaning is intended, the following definitions apply:

2.1 "Accused Party" means the employee, agency or instrumentality of Miami-Dade County, Florida, or of any municipality which elects to avail itself of the Panel's services, against whom a Complaint or Grievance is directed.

2.2 "Aggrieved Person" means any person who appears from a Complaint or Grievance to have suffered injury, harm, humiliation, indignity, or any other damage whatsoever as a result of misconduct by any County agency, employee or instrumentality.

2.3 "Chairperson" means the Chairperson of the Independent Review Panel or the Vice Chairperson, if the Chairperson is not able to preside.

2.4 "Complaint" or "Grievance" means a statement alleging that an employee, agency or instrumentality of Metro-Dade County has engaged in an improper act or misconduct in connection with the performance of their official duties, or a statement indicating that the Complainant believes that an existing policy, rule, procedure or practice operates to the detriment of the community as a whole or any segment thereof.

2.5 "Complainant" means any individual who files a Complaint or Grievance regarding the conduct of any County agency, employee or instrumentality. The Complainant may, but need not be an aggrieved person.

2.6 "County" means Miami-Dade County, Florida. The County is governed by an Executive Mayor and a 13-member Board of County Commissioners. They employ a Manager to administer, on a day-to-day basis, the activities of employees who provide services such as police, fire, garbage collection, recreation and zoning for the unincorporated areas of the County. Miami-Dade County has an area of 2,000 square miles encompassing 30 municipalities. County-wide services such as environmental control, transportation, indigent health care, social services, water and sewers, maintaining tourist attractions and the county court system are provided for all residents (approximately 2.3 million).

2.7 "Enabling Ordinance" means County Ordinance No. 80-8 adopted by the Board of County Commissioners, Miami-Dade County, Florida, which became effective February 19, 1980, as amended.

2.8 "Panel" means the nine (9) members of the Miami-Dade County Independent Review Panel appointed in accordance with the provisions of the Enabling Ordinance.

SECTION 3. ORGANIZATION AND MEETINGS

3.1 Composition of the Panel

The Panel shall consist of nine (9) members, five (5) appointed by the Board of County Commissioners and four (4) by the Panel members, taking into consideration ethno-cultural and gender representation, as provided by the enabling ordinance. Each Panel member shall be a qualified elector of Miami-Dade County, shall possess a reputation for civic pride, integrity, responsibility, and shall have demonstrated an active interest in public affairs and service.

3.2 Reserved

3.3 Term

A. Panel members: Each member of the Panel shall serve for a period of three years. Said term may be extended by the Board of County Commissioners if necessary to complete any pending investigation(s). Any vacancy shall be filled in the same manner as the original appointment.

3.4 Compensation

Members of the Panel shall serve without compensation, but shall be reimbursed for the reasonable and necessary expenses incurred in the performance of their official duties. Before entering upon the duties of office, each member shall submit a written acceptance of appointment and subscribe to the oath of office prescribed by law, which shall be filed in the Office of the Clerk of the County Commission.

3.5 Election of Chairperson, Vice Chairpersons

The members of the Panel shall in November elect a Chairperson and two Vice Chairpersons to serve for a term of one year beginning with the first Panel meeting in January. The Chairperson may serve for more than one term. In the absence of the Chairperson, at any meeting, the First or Second Vice Chairperson shall preside over the meeting. In the absence of the three officers, the panel may carry on business by electing an Acting Chairperson from the members present.

3.6 Election of Other Officers

The members of the Panel may select such other officers as the Panel deems necessary in accordance with the provisions of the Enabling Ordinance.

3.7 Transaction of Business

A majority of the constituted members of the Panel attending a Panel meeting or hearing shall constitute a quorum. The affirmative vote of a majority of the Panel members present shall be necessary to take any action. Any such actions shall be made at a meeting open to the Public in accordance with the Sunshine Law, Chapter 286.011, Florida Statutes. All meetings shall be conducted in accordance with such rules of order as the Panel may from time to time adopt. All Panel proceedings shall be conducted in accordance with the provisions of the Citizens Bill of Rights of the Miami-Dade County Home Rule Charter.

3.8 Special Committees

Special Committees as may be necessary shall be appointed by the Panel Chairperson.

3.9 Panel Meetings

The regular meetings of the Panel shall be held with such frequency and at such time and place as the Panel elects. Special meetings may be held at the call of the Chairperson or the acting Chairperson. Upon petition of three (3) members of the Panel, the Executive Director shall call a meeting within two (2) weeks.

3.10 Attendance at Meetings

If a member of the Panel fails to attend three (3) consecutive meetings without a satisfactory excuse and notification prior to the meeting or if a Panel member is absent for more than one-half of the Panel's meetings during his or her term of office, his or her appointment shall cease. A Panel member shall be deemed absent from a meeting when not present at the meeting at least seventy-five (75) percent of the time. Any such excuse shall be subject to the approval of a majority of the Panel members present at the meeting. The provisions of this section may be waived by a two-thirds vote of the members of the full Board of County Commissioners.

3.11 Executive Director

The Chief Judge of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, shall appoint one (1) person to be the Executive Director of the Independent Review Panel. The Executive Director shall hire and shall supervise administrative, clerical, investigative and other personnel necessary to discharge the functions of the Independent Review Panel. The Executive Director shall promulgate internal office procedures and prepare necessary standardized forms for the conduct of investigations and the receipt of Complaints or Grievances. The daily operations of the Panel, including the conduct of the investigations, shall be managed by the Executive Director who shall oversee the regular functioning of the staff assigned to carry out the duties of the Panel.

SECTION 4. PROCEDURES REGARDING COMPLAINTS OR GRIEVANCES

4.1 Policy

A. It is the policy of the Independent Review Panel to encourage citizens, who have serious Complaints or Grievances concerning the conduct of any employee, agency or instrumentality of Miami-Dade County, Florida to bring the same to the attention of the Independent Review Panel, before which the Complaint, if appropriate, will be considered, investigated and disposed of in accordance with the procedures set forth herein.

B. As promptly as possible the Panel's Executive Director shall notify each known aggrieved person, and each known accused employee, agency or instrumentality of the County, that the matter is the subject of a Complaint or Grievance and shall forward a copy of the complaint form.

C. The Independent Review Panel will make every effort to ensure that no adverse consequences will result to any person or witness as a result of having brought a Complaint or having provided information in any investigation of a Complaint.

D. The Independent Review Panel will make every effort to consider and to respond to citizens' Complaints and Grievances against any employee, agency or instrumentality of the County, and, if necessary, will conduct an impartial, open and fair investigation into any such Complaints or Grievances in accordance with the procedures set forth herein.

E. The right of any person to bring a Complaint shall be absolute and unconditional; the reluctance or refusal of the Complainant to prepare a complaint form shall not impair his or her right to lodge a Complaint. If the Complainant will not fill out or sign the form, it shall be completed by the Panel employee or Panel member with whom the Complaint is lodged.

4.2 Receiving Complaints

A. Complaints may be accepted in writing, in person, by telephone or by any other means of communication, whether the Complainant offers his or her name or submits the Complaint anonymously.

B. A Complaint may be lodged with the Independent Review Panel on behalf of oneself, or on behalf of another person by any interested person or group.

C. All Complaints, if authorized under these rules, shall be investigated thoroughly, competently and impartially and be brought to final disposition in a reasonable manner that is fair to all parties.

D. No Complaint or Grievance will be deemed to have been filed with the Panel unless and until it has been reduced to writing, in accordance with the following procedures:

1. If the Complaint or Grievance is lodged in person, the Panel employee or Panel member receiving the Complaint shall furnish the Complainant with a blank complaint or grievance form. The Complainant shall be asked to fill out the form and to sign the form in the space provided. An oath or sworn declaration shall not be required. The Complainant may refuse to sign the form or to give his or her name. A copy of the completed form shall be given to the Complainant to serve as a record of the filing of the Complaint.

2. If a Complaint is lodged by mail, the complaint form shall be completed by the Panel staff on the basis of information contained within the correspondence. The Panel staff shall mail a copy of the completed complaint form to the Complainant as a record of the filing of the Complaint, together with a request that the Complainant review the complaint form for accuracy and, if accurate, sign the same and return it to the Panel offices.

3. If the Complaint is lodged by telephone, the Panel staff shall fill out an original complaint form and prepare one (1) duplicate copy of the complaint form as a record of the filing of the Complaint. The Panel staff member taking the Complaint shall give his or her name to the Complainant. Panel staff shall furnish the Complainant with a copy of the completed form, together with a request for verification of accuracy and signature.

4. If the Complaint is lodged by an anonymous person, the Panel staff member receiving the Complaint shall endeavor to obtain the facts necessary and appropriate for the completion of the complaint form, record all information on the form and in the space provided for the Complainant's signature, and indicate "Anonymous Complainant".

4.3 Complaint Form

The Panel shall cause all Complaints received by it to be reduced in writing on complaint forms.

4.4 Recording of Complaints

The Panel shall cause a central register of all Complaints filed with it to be maintained in its office. The central register shall record actions taken on each Complaint. The central register and complaint file shall be open for Public inspection during office hours and shall contain the following:

- A. Number of Complaint
- B. Date Complaint was filed
- C. A brief description of the subject matter of the Complaint
- D. Complaint classification and disposition of the screening process
- E. Date of referral to involved department or agency for investigation
- F. Date department's or agency's response was received
- G. Results of committee and/or Panel consideration, if any
- H. Date and content of final disposition of Complaint

4.5 Withdrawal of Complaints

A Complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the Complainant, or by personal or telephonic notice to any Panel member or staff person by the Complainant.

SECTION 5. SCREENING, FACT FINDING and EVALUATION

5.1 Screening and Classification

A. Each complaint shall initially be screened by staff to determine its classification. Classifications of complaints are as follows:

- 1. "A": Complaint against a Miami-Dade County agency, employee, instrumentality or policy which requires a thorough investigation.
- 2. "B": Complaint against a Miami-Dade County agency, employee, instrumentality or policy which does not warrant a full investigation.
- 3. "NJ": No Jurisdiction. Complaint not against Miami-Dade agency or employee, eligible municipality or instrumentality.
- 4. "PC": Personnel Complaint filed by a Miami-Dade employee against his/her supervisor(s) or co-worker(s) or employing Department.
- 5. "M": Miscellaneous. Requests for information or counseling; incomplete complaint data.

5.2 Deferral of Action on Complaints

A. If the subject matter of the complaint is under investigation by the County department or agency having jurisdiction, if it is the subject matter of established administrative review procedures of the County or other governmental agency having jurisdiction, or if it is the subject of pending criminal or civil judicial proceedings, the complaint shall be deferred and the matter shall remain pending until such proceedings have reached a final disposition.

B. The Executive Director shall immediately advise the State Attorney or the appropriate County department or agency that a Complaint has been received regarding the matter, and request that the Panel be notified when any investigation or proceedings have reached a final disposition. Copies of all such communications shall be forwarded to the Complainant.

C. The Complainant shall be advised that if he or she is dissatisfied with the ultimate disposition of the matter by any such agency, department or governmental process, he or she may request the Independent Review Panel to review the matter further.

D. Notwithstanding the above provisions, the Panel shall not be required to continue deferral of a complaint if such administrative investigation or proceedings have not reached final disposition within sixty (60) days from the Panel's receipt of the complaint. This section does not apply to criminal investigations by the State Attorney or to judicial proceedings.

5.3 Action on Complaints

A. Complaints not against a Miami-Dade County agency, employee or policy (NJ, PC OR M).

1. "NJ", No Jurisdiction. If the subject matter of the complaint is not within the jurisdiction of the Panel, the Complainant shall be so advised by the staff. The staff may refer the matter directly to the appropriate agency having jurisdiction of the matter, together with a request, on behalf of the Panel, that the matter be considered by such agency or instrumentality. The Complainant shall be notified of such referral, and provided the name and title of the person to whom the matter was referred.

2. "PC", Personnel Complaint filed by a Miami-Dade County employee.

a. The Panel will not consider personnel complaints.

b. If there appears to be an issue of substantial inequity or unfairness, the Executive Director may present the complaint to the full Panel and request a waiver of "2 a", above.

3. "M", Miscellaneous. Requests for information, incomplete complaint data, advice and counsel. No further action will be taken after requests for information have been answered, after reasonable efforts have been made unsuccessfully to obtain information to complete a complaint, and/or advice and counsel have been given.

B. "A" and "B", Complaints against a Miami-Dade County agency, employee or policy.

1. "B", Complaint against a Miami-Dade County agency, employee or policy which does not warrant a full investigation. Complaints may be referred by staff, on behalf of the Complainant, to the appropriate person or persons in Miami-Dade County government for resolution. Such referral may be by telephone, in person or by mail. In all cases, the identity of the person or persons to whom a complaint is referred and the action taken in response to the complaint shall be noted in writing and filed with the complaint. The complainant shall be notified of the action whenever possible. No further action shall be required, but the Panel shall be provided a summary of such complaints upon request.

2. "A", Complaint against a Miami-Dade County agency, employee or policy which requires a thorough investigation.

a. Each "A" Complaint shall be referred to the County department, agency or instrumentality named in the complaint for a prompt and complete investigation of the complaint.

b. The named department, agency or instrumentality shall be requested to report back to the Independent Review Panel the results of its investigation along with a full and complete copy of its investigative file, including but not limited to, tapes of all statements taken and transcriptions made there from.

c. The Independent Review Panel shall submit a full copy of the investigative file referred to in "b", above, to the Complainant. Such copy need not include copies of tapes or statements taken, but shall be complete in all other respects.

d. If, after receipt of a copy of the investigative file made by the named department, agency or instrumentality, the complainant is satisfied with the resolution, the complaint may be concluded. This shall not prevent the Panel from continuing to review issues either raised in the initial complaint or during the investigation and review of the complaint.

e. If, after reviewing the results of the investigation into his or her complaint, a Complainant is not satisfied, he or she may request that a committee be established to investigate and/or review the complaint further, and to make recommendations regarding it to the full Panel. Upon such request, a committee shall be established.

f. A committee shall be established to consider a complaint further if either the staff or the Panel considers it is necessary to continue review of the complaint, even though the Complainant does not wish to pursue the complaint. The committee shall be called a Review Committee.

SECTION 6. COMMITTEE REVIEWS AND INVESTIGATIONS

6.1 Committee Assignments

A. Assignment of complaints under this section shall be made by rotation among the Panel members. A Panel member may request that he or she be temporarily excused from the normal rotation to equalize caseload, avoid conflicts of interest, or for other good cause. When a Panel member's term of office expires and he or she is replaced, the replacement will automatically receive any pending complaints assigned to the departing Panel member.

B. If the assigned Panel member believes it to be necessary, he or she may request that an additional Panel member or members be assigned to serve on the committee. The assigned Panel member may request the designation and appointment of any additional Panel member whose experience and expertise in any given area may prove to be of benefit in analyzing or resolving the particular complaint. Occasionally several complaints that have similar and/or complex subject matter may be assigned by the Panel to a Panel member who has become familiar with the issues involved and/or the accused department's policies and procedures.

C. A staff member shall be a member of each committee and shall assist the assigned Panel member in each complaint review or investigation, and may conduct such aspects of the investigation that the Panel member requests.

D. The Director of the department or agency which is the subject of a complaint and/or the department's liaison to the Independent Review Panel shall be invited to attend committee meeting(s).

6.2 Committee Procedures

A. A complaint may require more than one committee meeting due to the complexity of the issues involved, the need for further information and review by the committee, or scheduling conflicts.

1. Every effort should be made to schedule committee meetings at a time and place that is convenient for the complainant.

2. A meeting may be cancelled and rescheduled at the request of a Complainant one time, for good reason, but may not be rescheduled more than once, except by formal consent of the Panel.

3. If a Complainant fails to appear at a scheduled committee meeting, without having notified IRP staff beforehand, the committee shall proceed without the Complainant.

B. The Panel member serving on a committee shall be the Chairperson of the committee. Committee meetings are informal in nature.

C. In cases where there are two or more Panel members serving on a committee, the public must be notified of the date, time, and location of any meeting(s) in accordance with state law.

D. Prior to the start of a meeting, the Chairperson shall inform those present that an audio tape will be made of the meeting in order to assist in preparing an accurate record. The meeting shall continue with everyone present introducing themselves and providing their job titles, or describing themselves as complainant, witness, or observer.

E. After the committee member introductions, a brief statement describing the purpose of the Independent Review Panel, the nature of the complaint to be considered and the purpose of the committee meeting shall be made.

The introductory statement may also include:

1. The fact that the Panel does not have subpoena power (except for “whistle-blower” cases, Ord. 96-41), which is necessary to require that the accused county department or employee attend a committee meeting or a Panel meeting.

2. That the committee makes recommendations to the full Panel.

3. That the committee may recommend further investigation, departmental policy change or the establishment and imposition of discipline or remedial action, if no disciplinary action has been taken, or other corrective action and/or initiation of criminal proceedings.

4. That final disposition of the complaint will be made by the Panel at a future Panel meeting.

F. The committee Chairperson may summarize the complaint or ask the complainant to describe his or her complaint. The department representative shall then be asked to present the department's response to the complainant, the results of the departmental investigation and/or any steps that the department has taken to resolve the complaint. Statements may be made by any witnesses present at the meeting. Many complaints are resolved at this stage when the committee successfully acts as a mediator between the Complainant and the accused department.

G. Where further information and/or clarifications are needed, the department may be asked to investigate further, and/or the Panel staff may interview witnesses and gather additional data.

6.3 Authority and Powers Generally

A. In the event that there is no specific incident, complaint or grievance which is the subject matter of a Panel review or investigation, and a review is initiated to consider the County's complaint-handling procedures and activities designed to serve the public, the investigation shall include but not be limited to testimony taken from the appropriate department heads and employees, such statistical records as are available relative to the review, processing or complaint procedures, statements taken from citizens previously involved in such procedures or processes, and such other information as may be deemed necessary by the Panel or its staff.

B. The Panel or its staff may demand, examine and duplicate public records and documents in accordance with the provisions of Chapter 119, Florida Statutes, as may be amended from time to time.

C. The Panel or its staff may enter and inspect any premises under the jurisdiction or control of Miami-Dade County or any of its agencies or instrumentalities.

SECTION 7. DISPOSITION BY PANEL

7.1 Submission to Panel

Following completion of the committee's review, and/or investigation and recommendations, a written report shall be forwarded to all Panel members, and the matter shall be placed on the agenda of a scheduled or special meeting of the Panel.

7.2 Notification to Parties

A copy of the written report referred to in 7.1, above, shall be forwarded to each complainant and accused party, together with a notice of the time and place of the Panel meeting at which the complaint will be considered. All complainants and accused parties shall be notified that they have a right to be present at the said meeting, in person or through a representative of their choice, and to be heard by the Panel regarding the subject matter of the complaint. If for any reason the complainant or any accused party has not received a copy of the written report in advance of any meeting where the same is to be considered, Panel action thereon shall be deferred, upon the request of the complainant or accused party, to the next regularly scheduled meeting.

7.3 Panel Meeting Procedures

A. Meetings of the Panel shall be held regularly. Public notice of each meeting shall be given in accordance with the applicable state law.

B. The presence of five (5) Panel members is needed for a quorum. If it is known in advance that a quorum will not be attained, a scheduled meeting may be cancelled.

C. If a meeting is held with fewer than five (5) Panel members present, those present may review all items on the agenda, make motions and vote, with the understanding that any action taken does not become final until ratified by the Panel at the next meeting of five (5) or more Panel members.

D. All Panel meetings shall be tape recorded. Minutes summarizing each meeting shall be prepared by the Panel staff and adopted by the Panel by motion duly made, seconded and carried.

E. Panel meetings are informal in nature. County employees named as subjects in complaints, other county personnel, Complainants and witnesses appear voluntarily and need not be sworn. Meetings are open to the public and anyone who wishes to address the Panel may do so "from the floor."

7.4 Consideration by Panel

The Panel shall consider the reports of committees and any other information that may be brought to its attention at the said meeting. Thereafter, the Panel may:

A. Vote to conclude a matter without further investigation or review;

B. Request further investigation or review by the staff, the Panel, or a committee of the Panel;

C. Take such other action as it deems necessary and appropriate, including making recommendations regarding policy or rule changes, or specific personnel action.

D. If the Panel has reason to believe that the actions of a public official, employee or other person warrants criminal or disciplinary proceedings, it shall refer the matter to the appropriate governmental authorities with a request that the Panel be advised of any action taken as a result thereof.

7.5 Distribution of Final Report

A. The Panel shall advise the Complainant, the aggrieved party and the accused employee or concerned department or agency in writing of the Panel's disposition, and/or the outcome of any hearing before the Panel, and shall provide them with copies of the final report.

B. The Panel may further distribute and publicize the final report and shall include within it any conclusions or recommendations as it, in its discretion, determines to make in connection therewith.

SECTION 8- WHISTLE BLOWER RETALIATION COMPLAINT PROCEDURE

A - Stage One - SCREENING

1. Upon receipt of a written retaliation complaint from the County Manager's Office, the Independent Review Panel Executive Director or his/her designee shall screen the complaint to determine whether to proceed with a hearing or dismiss the complaint at screening. The complaint shall be dismissed at this stage due to only:

- a. failure of the written complaint to state facts which, if true, would authorize the granting of relief under Sec.2-967.8 of the Code of Metropolitan Dade County;

- b. failure of the Complainant to sign a consent form indicating that the complainant is aware of his/her rights and responsibilities under the Whistle Blower Ordinance, and has read and understands the rules of procedure;

or,

- c. failure of the Complainant to swear or affirm the truthfulness of the written complaint.

2. If the complaint is dismissed, the complainant shall be sent notification of same by the Executive Director, with signed concurrence by a Panel member. This notice shall clearly state the reason for the conclusion and provide notice of opportunity to appeal, in writing, to the Panel within 10 days. The notice shall contain a certificate of service as provided by Florida Rules of Civil Procedure 1.080(f). The time for appeal shall be measured from the date of service, so certified and computed as required by Fla. R. Civ. P. 1.090. Appeal shall be initiated by delivery to the office of the Executive Director of a written statement of intent to appeal. The Executive Director or his designee shall record the date and time of all such deliveries.
3. If the matter is not concluded at screening, the matter shall be scheduled for Public Adversarial Hearing.

B - Stage Two - MEDIATED CONFLICT RESOLUTION

The complainant and the accused will be offered mediated conflict resolution (MCR). If both parties agree to utilize this informal procedure, the resolution process will be mediated by a Panel member and the Executive Director or his/her designee. If both parties agree with the outcome of the MCR process, the agreement resolution shall be submitted to the Panel for ratification, without a formal investigation. If the matter cannot be resolved at this stage, a public adversarial hearing shall be conducted.

Parties that choose to participate in Mediated Conflict Resolution shall be asked to affirm and document understanding of the following:

1. Each party has an absolute right to be represented by counsel in Mediated Conflict Resolution and all stages of the IRP process. Should an accused County Department choose to be represented by counsel, they would not be represented by the County Attorney's Office but would seek external counsel.

Confidential statements made during Mediated Conflict Resolution sessions will not be admissible for adversarial public hearing purposes or subsequent proceedings.

2. The IRP Chairperson may allow each party one postponement of a scheduled adversarial public hearing for a period not to exceed 60 days.
3. Parties to Mediated Conflict Resolution may be granted a second session to finalize a Mediated Negotiation Agreement within five business days of the first session. Any other settlement prior to the scheduled adversarial public hearing will not be mediated by IRP members or staff.

C - Stage Three - PUBLIC ADVERSARIAL HEARINGS

Within sixty days of receipt of the complaint by the IRP, the Panel shall conduct an adversarial hearing, or determine whether to ratify the resolution of mediated solution on which there has been an agreement. Upon application of a party to the complaint, or upon its own motion, the Panel, by its chairperson or his or her designee, may, for good

cause shown, request the County Manager to extend, in sixty days increments, the time limitations of this process.

Subpoenas, signed by the Executive Director or designee, will be issued upon written request of the complainant, the accused or the Panel, to procure the attendance of witnesses and/or, with the approval of the County Manager, the production of records at the adversarial hearing.

1. *Setting and Notice of Hearing* - Staff shall coordinate with the parties and the Panel members to schedule a time and place for the hearing, and shall send written notice via U.S. Mail to the parties to the complaint, not less than 10 days before the hearing. A party's appearance at the hearing shall constitute a waiver of any deficiency in the notice of hearing.
2. *Absence of Party* - The hearing may proceed in the absence of a party who, after notice, fails to attend or to obtain a postponement from the Panel chairperson. Despite the absence of a party or parties, no recommendation shall be made without the submission of evidence to support the complaint.
3. *Representation by Counsel* - Each party has an absolute right to be represented by counsel at any adversarial hearing.

Presentation of Evidence - The Chairperson shall require all parties and witnesses to be sworn before they testify. The Chairperson, if he or she desires, may request opening statements and prescribe the order of proof. In any event, all parties shall be afforded full opportunity for the presentation of evidence. All pre-hearing discovery is prohibited.

If either party finds it necessary to perpetuate the testimony of a witness who would probably not be available to testify at the hearing, the deposition of that witness may be taken and submitted at the time of hearing in lieu of live testimony. Prior approval of the Executive Director shall be obtained prior to the taking of such deposition and the Executive Director shall grant such approval if he or she concludes the testimony of the witness relevant and there is a reasonable likelihood that the witness will not be available for the adversarial hearing.

The procedures for subpoenas and witness attendance shall be as prescribed in Sec. 2-50 of the Code of Metropolitan Dade County.

4. *Right of Party to Attend* - All parties shall have an absolute right to attend all hearings.
5. *Chair to Preside* - The Chairperson, or in his or her absence, the Vice Chair or a Panel member, shall preside at the hearing and shall rule on the admission and exclusion of evidence and on questions of procedure, and shall exercise all powers relating to the conduct of the hearing. The hearing shall be informal in nature without strict observance of the rules of evidence or the Florida Rules of Civil Procedures. Periods of time prescribed in these rules shall be computed as stated in Fla. R. Civ. P. 1.090.

D - Report to the County Manager

The Panel will transmit its findings of fact, conclusions and recommendations to the County Manager within 15 days of case dismissal, resolution or conclusion of adversarial hearing. Audio tape recorded testimony will be sent, along with Panel conclusions, for final consideration by the County Manager.

SECTION 9. INVESTIGATIONS: RESOURCES AND SCOPE

9.1 Investigative Staff

The Panel's Executive Director shall secure such investigative staff or fact finding and research personnel as the Executive Director may determine are necessary from the County Manager, from the State Attorney's Office or from such other source through which investigative assistance is available. No investigative personnel shall be utilized in connection with an investigation if such investigative personnel are not independent of the County agency or instrumentality which is the subject of the review or investigation. Should the Panel determine that a review or investigation requires investigators who are entirely independent of the County or State Government, the Executive Director may hire private investigative personnel after consultation with the Panel member assigned to that particular case. The Chairperson's, (or the Vice Chairperson's, in the Chairperson's absence) approval must be secured. The Panel shall be advised at its next regular meeting.

9.2 Scope of Investigation

The preliminary investigation or any subsequent investigation may include but shall not be limited to the following:

A. Interviews with the Complainant, the aggrieved party, interviews with the party or department head of the agency or instrumentality against whom the Complaint or Grievance is lodged and all other parties witnessing or involved in any alleged incident; examination of the scene of the incident; viewing, analyzing and preserving all physical evidence, if any, associated with the alleged incident; review, analysis and preservation of all other physical evidence, if any. It shall be the responsibility of the investigator to record each step in the investigation and the result thereof in an investigation report which shall be made a part of the complaint file.

B. The Panel's investigators shall attempt to secure written statements under oath from all participants in and witnesses to the alleged incident but where any witness or participant is unwilling to make a signed written statement, the assigned investigator shall provide a verbatim transcript or written summary of the oral statement, if any, provided by such participant or witness. Where a written statement is given and signed by a participant or witness, the assigned investigator shall provide the person making such statement with a copy of the statement.

C. In the event that there is no specific incident, Complaint or Grievance which is the subject matter of a Panel review or investigation, and a review is initiated to consider the County's complaint review processes and investigatory activities designed to serve the Public, the investigation shall include but not be limited to

testimony taken from the appropriate department heads and employees, such statistical records as are available relative to the review, processing or Complaint procedures, statements taken from citizens previously involved in such procedures or processes and such other information as may be deemed necessary by the Panel or its staff.

9.3 Manner of Conducting Investigations

The Investigation shall be conducted in a manner designed to produce a minimum of inconvenience and embarrassment to the Complainant, the aggrieved person, the accused employee, agency or instrumentality of the County and the witnesses.

SECTION 10 PANEL HEARINGS

10.1 Procedure for Scheduling Hearings

After the conclusion of the preliminary investigation, the Panel's Executive Director shall determine the place, date and time of the Panel hearing and shall furnish written notice of the place, date and time of the hearing to each Panel member, the Complainant, each aggrieved person and the accused party. The Panel's Executive Director shall also give such notice of the subject matter, place, date and time of each hearing as is required by law.

10.2 Open Public Hearings

All Panel hearings will be open to the public and a taped record will be made and shall be available at cost to any person who requests it.

10.3 Hearing Procedures

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil or criminal actions.

10.4 Counsel or Representative at Hearing

An attorney or other representative acting on behalf of the Complainant, any aggrieved party, or any accused party may be present at the hearing, at the expense of such party, but such representation shall not be required.

10.5 Testimony

Testimony under oath administered by the Panel's Chairperson may be received from all persons who appear and purport to have information which is material to the matter under consideration by the Panel.

10.6 Stenographic Record

At the option of the Panel, a stenographic record may be kept, and if kept, shall be made available, upon payment of the cost of duplicating or transcribing the same, to any person requesting same.

SECTION 11. FINDINGS OF PANEL AND DISPOSITION OF COMPLAINTS

11.1 Final Report

Within thirty (30) days following the completion of the Panel hearing, and review of all additional evidence, if any, and the rules, procedures, orders, ordinances, statutes and Constitutional provisions allegedly violated, the Panel, by a majority vote, shall adopt and publish a final report with regard to each matter reviewed. Any final report of the Panel shall be transmitted simultaneously to the Executive Mayor, Board of County Commissioners, the County Manager and the Director of the concerned County department. If the Panel has reason to believe that a public official, employee or other person warrants criminal or disciplinary proceedings, it shall refer the matter to the appropriate governmental authorities with a request that the Panel be advised of any action taken as a result thereof. A dissenting Panel member or members may express the reasons for dissenting in writing and such dissent shall be included within such final report.

11.2 Distribution of Final Report

A. The Panel shall advise the Complainant, the aggrieved party and the accused employee or concerned department or agency in writing of the outcome of any hearing before the Panel and shall provide them with a copy of the final report.

B. The Panel may further distribute and publicize the final report and shall include within it any conclusions or recommendations as it in its discretion determines to make in connection therewith.

SECTION 12. DISSEMINATION OF INFORMATION TO THE PUBLIC

12.1 Press Releases

Press releases require prior authorization by the Executive Director.

12.2 Pamphlet

A pamphlet describing the purposes and procedures of the Independent Review Panel shall be prepared and distributed by the Independent Review Panel.

SECTION 13. PUBLIC RECORDS

13.1 Public Inspection

All matters within the jurisdiction of the Independent Review Panel, including without limitation, written statements of policy or interpretation formulated, adopted or used by the Panel in the discharge of its functions shall be made available for public inspection as required by law.

13.2 Files Open

Copies of all complaints, grievances, rules, reports or opinions of the Independent Review Panel shall be maintained on file and available for public inspection at the offices of the Independent Review Panel. Any party requesting copies of any such records may be provided with copies and charged a reasonable fee in accordance with Florida Statute 119.07 (1) and Miami-Dade County Administrative Order 4-48.

13.3 Files Maintained

All files of the Independent Review Panel shall be retained in accordance with the applicable state law.

SECTION 14. PRESERVATION OF RIGHTS

The within procedures shall be in addition to and not in derogation of:

A. The procedures existing from time to time for the preservation of rights of police officers, pursuant to the Police Officer's Bill of Rights, Florida Statute 112.531.

B. The applicable laws, ordinances, statutes and constitution of the State of Florida.

SECTION 15. AMENDMENT

The Rules of Procedure of the Independent Review Panel may be altered, amended or repealed, or new Rules may be adopted by the Panel at any regular meeting, or any special meeting called for that purpose, by a majority vote of the Panel members present at such meeting, provided, however, that notice of the intent of the Panel to consider the adoption of new Rules or the amendment, repeal or alteration of an existing rule is given to the members of the Panel at least five (5) days prior to the holding of such meeting. Such amendment or change in the rules may be initiated at the request of any member of the Panel filed with the Executive Director not less than fifteen (15) days prior to the date of any regular meeting at which such Panel member desires the matter to be considered.

SECTION 16. WAIVER

Any provision herein may be waived by a majority vote of the Panel members present at any regular meeting.

SECTION 17. VALIDITY

If any portion or section of these rules or regulations is declared to be unconstitutional or illegal, the remaining sections shall remain valid and effective.

SECTION 18. EFFECTIVE DATE

These Rules of Procedure shall become effective upon the date of the adoption of the same.

PASSED AND ADOPTED: November 24, 1998



*Alex Penelas
Mayor*

Board of County Commissioners

*Dr. Barbara M. Carey-Shuler
Chairperson*

Betty T. Ferguson

District 1

Dorrin D. Rolle

District 2

Dr. Barbara M. Carey-Shuler

District 3

Sally A. Heyman

District 4

Bruno A. Barreiro

District 5

Rebeca Sosa

District 6

Jimmy L. Morales

District 7

Katy Sorenson

District 8

Dennis C. Moss

District 9

Javier D. Souto

District 10

Joe A. Martinez

District 11

Jose "Pepe" Diaz

District 12

Natacha Seijas

District 13

*Harvey Ruvin
Clerk of the Courts*

*George Burgess
County Manager*

*Robert A. Ginsburg
County Attorney*

Miami-Dade County provides equal access and equal opportunity in employment and services and does not discriminate on the basis of disability.